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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES  
(Administrative Patent Judge Richard E. Schafer)

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Human Genome Sciences, Inc.,  
Junior Party  
(Patent 6,872,568;  
Inventors: Jian Ni, Reiner L. Gentz,  
Guo-Liang Yu and Craig A. Rosen),

v.

Immunex Corp.,  
Senior Party  
(Application 09/378,045;  
Inventors: Charles Rauch and Henning Walczak).

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Patent Interference No. 105,240 (RES)

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**Judgment - Order to Show Cause - Bd.R. 202(d)**

1 Human Genome Sciences' (HGS) brief on priority was due on  
2 October 5, 2007. HGS did not file a brief. HGS was put under an Order to  
3 Show Cause why judgment on priority should not be entered against it for  
4 failing to file a priority brief. Paper 139. HGS responded and requested that

judgment on priority be entered against it. Paper 140, p. 2. HGS notes that as a result of the decisions on motions, HGS can not prevail on priority and will seek judicial review. Paper 140, p. 2.

Accordingly, it is

**ORDERED** that judgment on priority as to the subject matter of Count 1 (Paper 135, p. 2) is awarded against Human Genome Sciences, Inc.;

**FURTHER ORDERED** that Human Genome Sciences, Inc. is not entitled to a patent containing claims 1-6, 8-19, 21-32, 34-45 and 47-52 (corresponding to Count 1) of Patent 6,872,568;

**FURTHER ORDERED** that claims 1-6, 8-19, 21-32, 34-45 and 47-52 of Patent 6,872,568 be CANCELED, 35 U.S.C. § 135(a);

**FURTHER ORDERED** that a copy of this judgment be made of record in the file of Patent 6,872,568, and Application 09/378,045; and

**FURTHER ORDERED** that if there is any settlement agreement which has not been filed, attention is directed to 35 U.S.C. § 135(c) and 37 CFR § 41.205.

/Richard E. Schafer/  
RICHARD E. SCHAFFER  
Administrative Patent Judge

/Sally C. Medley/  
SALLY C. MEDLEY  
Administrative Patent Judge

/James T. Moore/  
JAMES T. MOORE  
Administrative Patent Judge

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